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SUBSIDIARY BODY FOR IMPLEMENTATION

REPORT OF THE SUBSIDIARY BODY FOR IMPLEMENTATION ON THE WORK OF ITS THIRTEENTH SESSION (PART ONE) LYON, 11-15 SEPTEMBER 2000

Addendum

PROCEDURES AND MECHANISMS RELATING TO COMPLIANCE UNDER THE KYOTO PROTOCOL[1]

Proposals by the Co-Chairmen of the Joint Working Group on Compliance

[PROCEDURES AND MECHANISMS RELATED TO COMPLIANCE UNDER THE KYOTO PROTOCOL]

[A COMPLIANCE SYSTEM FOR THE KYOTO PROTOCOL

TEXT

Section I. General provisions

Objective

1. The objective of the [procedures and mechanisms relating to compliance] [compliance system] is to facilitate, promote [and enforce] compliance with the commitments of the Protocol, in the manner set out in the following provisions [, and in accordance with the principles of the Convention].

Nature

Option 1

2. The [procedures and mechanisms relating to compliance] [compliance system] shall be credible, fair, coherent, comprehensive, unified, effective, predictable, transparent and simple.

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[1] This item was considered jointly with the Subsidiary Body for Scientific and Technological Advice at the first part of the thirteenth sessions, under agenda item 5.

Option 2

3. *The nature of the [procedures and mechanisms relating to compliance] [compliance system] should not be expressly provided for in the operative text, as its nature will be implicit from the content of the text. Alternatively, its nature could be reflected in the preamble or in a decision accompanying the adoption of the [procedures and mechanisms relating to compliance] [compliance system].*

Principles

Option 1

4. The operation of the [procedures and mechanisms relating to compliance] [compliance system] shall [be guided by] [be based on] the [principles set out in Article 3 of the Convention] [and the recognized principles under international law] [and in particular shall]:

[(a) Be proportionate, in that the procedures, mechanisms and consequences should take into account the cause, type, degree and frequency of non-compliance;]

[(b) Adhere to the principle of common but differentiated responsibilities as defined in the Convention;]

[(c) Treat all Parties that have undertaken the same commitments in an equivalent manner;]

[(d) Be based on principles of efficiency and due process allowing Parties, and in particular the Party concerned, an opportunity for a full, fair and timely [consideration and] resolution of compliance-relating issues; [, including the presumption that a Party has complied with its commitments unless non-compliance is established;]]

[(e) Provide for reasonable certainty; prevention of non-compliance; importance of domestic compliance and enforcement; creating appropriate incentives to comply; restoration to the environment of excess tonnes; automaticity; and transparency.]

Option 2

5. *Principles governing the operation of the [procedures and mechanisms relating to compliance] [compliance system] should not be expressly provided for in the text, as they are contained in the Convention and the Protocol and could be implicit from the content of the text, or be reflected in the preamble or in a decision accompanying the adoption of the [procedures and mechanisms relating to compliance] [compliance system].*

Scope of application

Option 1

6. The [procedures and mechanisms relating to compliance] [compliance system] shall apply to all commitments [contained] [, and referred to,] in [and under] the Protocol.

Option 2

7. The [procedures and mechanisms relating to compliance] [compliance system] shall apply to all commitments [contained] [, and referred to,] in [and under] the Protocol, [as provided in this decision.] [, except where otherwise provided.]

Option 3

8. The [procedures and mechanisms relating to compliance] [compliance system] shall apply to all commitments [contained] [and referred to] in [and under] the Protocol, [and, as appropriate, the rules, guidelines, and procedures thereunder] [, except that all compliance and non-compliance issues with respect to the clean development mechanism (CDM) shall be dealt with exclusively by the executive board of the CDM].

Option 4

9. The [procedures and mechanisms relating to compliance] [compliance system] shall apply to [Articles 3.1, 4.1, 5, 7, 8, 6, [12], 17] [all commitments of Annex I Parties] [contained] [, and referred to,] in [and under] the Protocol. [All issues of compliance with other commitments [contained] [, and referred to,] in [and under] the Protocol shall be addressed and determined by the multilateral consultative process under Article 16.]

Option 5

10. The scope of application should not be expressly provided for in the text.

Section II. Establishment and structure

Compliance Committee

1. A Compliance Committee (hereinafter referred to as the "Committee") is hereby established [as an administrative and subsidiary body of the COP/MOP] [pursuant to Article 18 of the Protocol].

2. The Committee shall function through [a plenary, and] two branches, namely, the facilitative branch and the enforcement branch.

3. The Committee shall consist of [15] [...] members, elected by the Conference of the Parties serving as the meeting of the Parties to the Protocol (COP/MOP) [based on equitable geographical representation of the five regional groups, and taking into account the interest

groups as reflected by the current practice in the UNFCCC Bureau] [...]]. Members of the Committee shall be nominated by the Parties and shall serve in their personal capacity. Members shall have recognized competence relating to climate change and in relevant fields, such as the scientific, technical, socio-economic or legal fields.

4. The Committee shall constitute a Bureau [with administrative functions] consisting of [...] members, [...] to be chosen from the facilitative branch and [...] from the enforcement branch.

5. The facilitative branch and the enforcement branch shall interact and cooperate in their functioning and, as necessary, on a case-by-case basis, the Bureau may designate one or more members of one branch to contribute to the work of the other branch [on a non-voting basis].

Facilitative branch

Membership

6. The facilitative branch shall consist of [10] [...] members of the Committee elected by the COP/MOP on the basis of [equitable geographical representation of the five United Nations regional groups, taking into account the interest groups as reflected by the current practice in the UNFCCC Bureau] [...], [five] [...] of whom shall be elected at the first session of the COP/MOP, for a term of two years, and [five] [...] members for a term of four years. At each biennium thereafter, the COP/MOP shall elect [five] [...] new members for a term of four years. Outgoing members may be re-elected for one consecutive term.

7. The membership of the facilitative branch shall reflect in a balanced manner the competence in the fields referred to in paragraph 3 of this section.

Mandate

Option 1

8. The facilitative branch shall be responsible for providing advice and facilitation to all Parties in implementing the Protocol and for promoting the compliance of [Annex I] Parties with their commitments in and under the Protocol.

[9. Taking into account the differentiated responsibilities of Annex I and non-Annex I Parties, the facilitative branch shall with regard to non-Annex I Parties apply the consequences set out in section IV, paragraphs ..., and with respect to Annex I Parties the consequences set out in section IV, paragraphs ...]

[10. The facilitative branch shall not apply the outcomes or consequences set out in section IV, paragraphs ...]

Option 2

11. The facilitative branch shall be responsible for promoting compliance [and] [by] providing advice and facilitation concerning individual Parties' implementation of commitments in and under the Protocol.

Option 3

12. The facilitative branch may, depending upon the particular case before it:

(a) Provide advice to a Party regarding its implementation of the Protocol;

(b) Indicate to a Party where and how to seek advice and assistance regarding its implementation of the Protocol, including arranging collective efforts to facilitate assistance;

(c) Assist, facilitate and mediate a Party's access to financial and technical assistance, including through technology transfer and capacity-building.

13. Any recommendation of the facilitative branch shall be sent to the Party concerned for its consideration.

Procedures to be followed

14. The facilitative branch shall follow the procedure set out in section III, paragraphs 13 to 24.

15. [The multilateral consultative process referred to in Article 16 of the Protocol may be designated to perform the responsibilities of the facilitative branch.] [The facilitative branch shall constitute the multilateral consultative process referred to in Article 16 of the Protocol.]

Enforcement branch

Membership

16. The enforcement branch shall consist of [five] [...] members of the Committee elected by the COP/MOP on the basis of [equitable geographical representation of the five regional groups, taking into account the interest groups as reflected by the current practice in the UNFCCC Bureau] [one half from among Annex I Parties and one half from among non-Annex I Parties] [a larger representation from Annex I Parties] [[four] [five] [...] members nominated by Annex I Parties]. The COP/MOP shall, at its first session, elect [two] [...] members for a term of two years and [three] [...] members for a term of four years. At each biennium thereafter, the COP/MOP shall alternately elect [two] [...] or [three] [...] new members, as appropriate, for a term of four years. Outgoing members may be re-elected for one consecutive term.

17. [The [majority of the] members of the enforcement branch shall have legal experience.] [The membership of the enforcement branch shall reflect in a balanced manner the competence

in the fields referred to in paragraph 3 of this section, recognizing the necessity of including members with legal experience.]

Mandate

18. The enforcement branch shall be responsible for:

(a) Determining whether a[n Annex I] Party is in non-compliance with Articles [3.1] [, 2 and 3];

[(b) Determining whether a[n Annex I] Party is in non-compliance with Article 3.14];

[(c) Determining whether a[n Annex I] Party is in non-compliance with Article 5 and/or Article 7];

(d) Determining [in the event of a disagreement], whether to apply adjustments to inventories under Article 5.2 [and with Article 7.4];

(e) Determining whether a[n Annex I] Party [is] [or] [is not] meeting any eligibility requirement [of Annex I Parties] under Articles 6, [12] and/or 17 of the Protocol;

(f) [Determining whether to apply] [Applying] the consequences set out in section IV, paragraph..., [with respect to Annex I Parties];

[(g) *Other elements*].

Procedures to be followed

19. The enforcement branch shall follow the procedures set out in section III, paragraphs 25 to 39.

[20. The proceedings of the enforcement branch shall apply to Annex I Parties only.]

[21. In applying the consequences set out in section IV, a certain degree of flexibility shall be allowed by the enforcement branch to the Parties included in Annex I undergoing the process of transition to a market economy.]

Section III. Procedures

Submission of questions of implementation

1. The Committee may receive questions of implementation [indicated in a report of the expert review teams under Article 8, or] submitted by:

(a) Any Party with respect to itself;

[(b) Any Party with respect to another Party, supported by corroborating information [with respect to the facilitative branch only];

[(c) The COP/MOP, except that a Party may not participate in the decision with respect to a question directly concerning itself;]

[(d) The executive board or other bodies established under Articles 6, [12] or 17].

2. Submissions under paragraph 1, subparagraphs (b)-(d) above, shall be made available by the secretariat to the Party concerned, within [...] weeks of the receipt by the Committee of a question of implementation referred to in paragraph 1.

Reports of expert review teams under Article 8

Option 1

3. In addition to receiving a report containing a question of implementation referred to in paragraph 1, the [Committee] [enforcement branch] shall receive all other final reports of the expert review teams. Upon receipt of such final reports, the [Committee] [enforcement branch] shall notify the secretariat that it is not proceeding with any questions of implementation in relation to any final reports.

Option 2

4. Pursuant to Article 8.3 of the Protocol, the reports of expert review teams shall be considered by a panel of the COP/MOP with a view to ascertaining that the reports are in accordance with the guidelines to be established by the COP/MOP.

5. The panel shall consist of [...] members elected annually by the COP/MOP on the basis of equitable geographical representation. It shall meet as necessary during the inter-sessional period of the COP/MOP, and to be presided over by [...].

6. The panel shall consider the report of the expert review teams in its first session after transmittal of the report to the COP/MOP, and shall act expeditiously in every case.

7. The panel shall inform the Committee in writing of the results of its consideration of the report of the expert review team. It shall ensure, and not hinder, consideration of the report by the Committee at the earliest possible time.

Option 3

No such section is needed.

Preliminary examination of questions of implementation

8. The [relevant branch] [plenary] shall, [in accordance with agreed criteria adopted by the COP/MOP,] make a preliminary examination of questions to ensure that, except in the case of a question raised by a Party concerning itself, the question:

(a) Is supported by sufficient information;

(b) Is not *de minimis* or ill-founded [, based on the requirements of the Protocol and the rules made pursuant to the Protocol]; or

(c) Is, [with respect to the eligibility requirements [for Annex I Parties] under Articles 6, [12] and 17, in accordance with the non-compliance criteria under Articles 5, 7 and 8].

9. The preliminary examination of a question shall be completed within [...] weeks.

10. After the preliminary examination of a question, the Party concerned shall be notified in writing and, in the event of a decision to proceed, shall be provided with a statement identifying the question of implementation and the information that will be considered and the branch to which the question will be referred.

[Allocation of questions of implementation

11. The [bureau] [plenary] shall allocate questions of implementation to the appropriate branch in line with the responsibilities of each branch as set out in section II, paragraphs 8 to 13 and 18.

[12. No question shall be considered by the enforcement branch until a decision regarding that question has been made by the facilitative branch]]

Procedures for further handling of questions of implementation

13. The following procedure shall apply to the facilitative branch and the enforcement branch, except where otherwise provided in respect of the enforcement branch.

Participation of Parties

14. The Party concerned shall be entitled to designate one or more persons to represent it during the consideration of the question. The Party concerned shall participate in the deliberations but not in the elaboration and adoption of a recommendation or decision of the branch.

15. Within [...] weeks after the notification under paragraph 10 of this section and not less than [...] weeks before the branch considers the questions of implementation, the Party concerned shall be given an opportunity to comment on all information relevant to the questions as well as findings, recommendations and final decisions made by the branch.

Avoidance of conflict of interest

16. [No member of a branch who is a national of a Party that is involved in a question before the branch shall participate in the proceedings relating to that question.]

(Consideration should be given to a provision about the use of alternate members.)

Sources of information

17. The branch shall base its deliberations on information provided by:

(a) Reports of the expert review teams under Article 8 of the Protocol;

(b) The Party or Parties concerned;

(c) [Relevant reports of the COP/MOP and its subsidiary bodies, including,] where appropriate, the other branch.

[18. The branch may also seek and receive additional information from [other experts and organizations qualified in matters covered by the Protocol] [non-governmental organizations and other sources it considers relevant.] [non-governmental organizations and others may provide relevant information to the branch].]

19. Any information received by the branch shall be made available to the Party concerned and, subject to any rules relating to confidentiality, to the public.

Recommendations and decisions

20. The adoption of a preliminary finding, recommendation, or decision not to proceed or a final decision, shall require a quorum of [...].

21. The members of the branch shall make every effort to reach agreement on any preliminary finding, recommendation or decision not to proceed, or final decision, by consensus. If all efforts at reaching consensus have been exhausted, the preliminary finding, recommendation, or decision not to proceed, or final decision shall as a last resort be adopted by a majority of at least [three fourths] of the members of the branch [present and voting]. The final decision shall provide conclusions and reasons therefor.

22. The branch shall forthwith notify the Party concerned in writing of its preliminary finding, recommendation or decision, with conclusions and reasons therefore. The branch shall make copies available to all other Parties and to the public.

[Translation of documents

23. Any question of implementation submitted under paragraph 1, information received under paragraph 17 and 18 and a preliminary finding, recommendation or decision made under

paragraph 20, shall be translated into one of the United Nations official languages, if requested by the Party concerned.]

Rules of procedure

24. The [COP/MOP] [Committee] may further develop rules of procedure for the branches, including for confidentiality, consistent with these [procedures] [provisions].

Proceedings of the enforcement branch

Written submission

25. Within [...] weeks after the receipt of the notification under paragraph 10 of this section and not less than [...] weeks before the branch is scheduled to consider the question of implementation, the Party concerned may make a written submission to the enforcement branch, including rebuttal of information submitted to the branch.

Hearing

26. If so requested in writing by the Party concerned within [...] weeks of the notification, the branch shall hold a hearing at which the Party concerned shall have the opportunity to present its views. The Party concerned may present [expert testimony] [opinion] at the hearing. [Such a hearing shall be held in public unless the branch decides that part or all of the hearing shall take place in private.]

27. The branch may [put questions to] [seek clarification from] the Party concerned either in the course of such a hearing, or at any time in writing and the Party concerned may provide a response within [...] weeks thereafter.

Reference to the facilitative branch

[28. The enforcement branch may, at any time, where appropriate, refer a question to the facilitative branch for consideration.]

Preliminary finding

29. Within [...] weeks from receipt of the Party's written submission under paragraph 25, or within [...] weeks from the date of any hearing pursuant to paragraph 26, or within [...] weeks from the notification under paragraph 10 of this section if the Party has not provided a written submission, whichever is the latest, the branch shall:

(a) Make and issue a preliminary finding that the Party concerned is in breach of a commitment referred to in section II, paragraph 18, does not meet an eligibility requirement under Articles 6, [12] or 17 [or that an adjustment applies], and

(b) Otherwise determine not to proceed further with the question.

30. The preliminary finding or the decision not to proceed shall provide conclusions and reasons therefor.

31. The branch shall forthwith notify the Party concerned in writing of its preliminary finding or decision not to proceed. The decision not to proceed shall be made available to other Parties and to the public.

Expedited procedure

32. Where a question relates to eligibility requirements [of Annex I Parties] under Articles 6, [12] or 17 [, including adjustments related to the observance of eligibility requirements], paragraphs [25 to 31] of this section shall apply, except that:

[(a) The preliminary examination referred to in paragraph 8 above shall be conducted within [1] week;]

(b) The branch shall issue its [preliminary finding or] decision not to proceed within [six] weeks of being informed in writing of a question of implementation [identified by an expert review team under Article 8];

(c) The Party concerned may make a written submission within [four] weeks after receipt of the notification.

Final decision

33. Within [...] weeks from the receipt of the notification of the preliminary finding, the Party concerned may provide a further written submission. If that Party does not do so within that period of time, the branch shall issue a final decision confirming its preliminary finding.

34. If the Party concerned provides a further written submission, the branch shall, within [...] weeks from the date it received the further submission, consider it and make a final decision, indicating whether the preliminary finding is confirmed, and, if so, which part.

35. The final decision shall provide conclusions and reasons therefor.

36. The branch shall forthwith notify in writing the Party concerned of its final decision and make it available to the other Parties and to the public.

37. Where the expedited procedure under paragraph 32 of this section applies, [the period during which the Party may reply to a preliminary finding shall be [four] weeks, and] the branch shall issue its final decision within [two] [...] weeks of receiving any such reply.

Adoption of findings and decisions

38. The adoption of a preliminary finding, a recommendation, a decision not to proceed, or a final decision, of the enforcement branch shall require a quorum of [...].

39. The members of the enforcement branch shall make every effort to reach agreement on any preliminary finding, recommendation, or decision not to proceed or final decision, by consensus. If all efforts at reaching consensus have been exhausted, the preliminary finding, recommendation or decision not to proceed or final decision, shall as a last resort be adopted by a majority of at least [three fourths] of the members of the branch [present and voting].

Appeal

Option 1

40. The Party concerned may appeal against a decision of the Committee [involving consequences relating to its non-compliance with Article 3.1] [and Article 4.1] [or against a decision of the Committee that a Party does not meet the eligibility requirements for one or more of the mechanisms set forth in or under Articles 6, [12] and 17].

41. [A standing appellate body is hereby established. It shall consist of seven members, three of whom shall serve on any one appeal. Members of the appellate body shall be elected by the [Committee] [COP/MOP] for terms of not more than four years. Members of the appellate body shall be recognized authorities in relevant fields, and have the requisite scientific, technical, socio-economic, or legal qualifications and experience to carry out their functions. They shall not be affiliated to any government and shall serve in their personal capacities.]

Or

[An appeal may be made to the COP/MOP. The COP/MOP may agree by [consensus] [[…] majority] to override a decision made by the Committee on issues set out in paragraph 40.]

[42. The working procedure for appeals may be developed by the [COP/MOP] [appellate body] […].]

Option 2

43. There should be no procedure for appeal.

COP/MOP

44. The Committee shall report on all its activities to each ordinary session of the COP/MOP in accordance with guidelines for such reports adopted by the COP/MOP.

45. The COP/MOP shall [review] [take note of] [consider] reports of the Committee, [and provide guidance] including on any issues regarding implementation that may have implications for the work of the subsidiary bodies.

[46. The COP/MOP shall accept the reports of the Committee, unless the COP/MOP decides by consensus not to do so.]

[47. The COP/MOP [shall] [may] provide general policy guidance to the Committee.]

[True-up] period

48. A [true-up] period is defined as a period of [[36] [...] months following the end of the commitment period] [[one] [...] month after the publication of the final report of the expert review of the inventory of the last Party to be reviewed for the last year of the commitment period] [other].

49. During the [true-up] period, in order to fulfil its commitments under Article 3.1, any Party may:

[(a) Continue to acquire [and transfer] ERUs, CERs and AAUs under Articles 6, [12] and 17 from the preceding commitment period (provided it has not been found ineligible to participate [in any mechanism under that Article])];

[(b) Make a voluntary payment into a climate change fund or funds].]

Section IV. Consequences

Facilitative branch

Option 1

1. The facilitative branch shall, with regard to non-Annex I Parties, depending upon the particular question before it, decide upon one or more of the following consequences:

(a) The provision of advice and assistance to individual Parties regarding the implementation of the Protocol;

(b) Facilitation of financial and technical assistance, including technology transfer and capacity-building, taking into account the provisions of Article 4.7 of the Convention and the relevant decisions of the COP.

2. The facilitative branch shall, with regard to Annex I Parties, depending on the particular question before it and taking into account the cause, type, degree and frequency of the non-compliance, decide upon one or more of the following consequences:

(a) Provision of advice and assistance to individual Parties regarding the implementation of the Protocol;

(b) Making recommendations to the Party concerned;

(c) Publication of non-compliance [or potential non-compliance];

(d) Issuing of cautions;

(e) Initiation of the enforcement procedure set out in section III by the facilitative branch.

Option 2

3. The facilitative branch shall, depending upon the particular question before it, decide upon one or more [of the following] consequences [, including the following]:

(a) Provision of advice and facilitation of assistance to individual Parties regarding the implementation of the Protocol;

(b) Facilitation of financial and technical assistance, including technology transfer and capacity-building;

[(c) Making recommendations];

[(d) Publication of [non-compliance as determined by the enforcement branch] [or potential non-compliance;]

[(e) Issuing of cautions;]

(f) *(Other)*

Enforcement branch

[4. The consequences set out in paragraph … to … shall apply to Annex I Parties only.]

[5. The enforcement branch may, [with regard to Annex I Parties,] depending on the particular case before it and taking into account the cause, type, degree and frequency of the non-compliance, decide upon one or more of the following consequences:

[(a) Making recommendations to the Party concerned;]

(b) Publication of non-compliance;

[(c) Issuing of cautions.]

(d) *(Other)*

6. The enforcement branch, where it has determined that [a Party] [an Annex I Party] has failed to meet any eligibility requirement relating to the mechanisms under Articles 6 [12] and 17, shall [make a recommendation regarding] [suspend] the eligibility of the Party concerned for the mechanisms in question, in accordance with the provisions in or under Articles 6 [12] [and] [or] Article 17, as applicable.

Or

If an [Annex I] Party is found by the enforcement branch to be in breach of any of the eligibility requirements under Articles 6 [, 12] [and] [or] 17, [that Party] [and other members of that Party's Article 4 arrangement] may not [, for the mechanism in question]:

(a) [Transfer or] acquire parts of assigned amount; [or]

(b) [Transfer or] acquire emission reduction units; [and] [or]

(c) Acquire certified emission reductions;

in accordance with the provisions of Article 3, until the enforcement branch is satisfied that the Party is in full compliance with the relevant requirements.

7. If the enforcement branch determines that a Party, following the [true-up] period, has not complied with [Article 3] [Article 3.1] [Article 4.1] of the Protocol, It shall [apply] [impose] [request the Party to choose] [one of] the following consequences [, or a combination thereof] [,taking into account the cause, type, degree and frequency of such non-compliance] [unless the Party can demonstrate to the satisfaction of the enforcement branch that the cause, type, degree or frequency of its non-compliance makes it inappropriate to do so].

[Publication of non-compliance

8. The enforcement branch shall notify all Parties to the Protocol of the details of the Party's non-compliance; and publish its determination, including the reasons for it [as well as the summary of reasons presented by Parties] on the UNFCCC web site.] [The publication shall contain any explanatory notes provided by the Party concerned.]

[Recommendation of policies and measures

9. Recommend policies and measures [, taking into account Article 2.3 of the Protocol] [with the aim.].]

[Restoration of excess tonnes

Option 1

10. Determine that [1.3] [1.x] [x] [times] the [number of] excess tonnes shall be deducted from the Party's assigned amount for the commitment period following the period for which the non-compliance with Article 3.1 occurred.

Option 2

11. Purchase units of assigned amount originating in the first commitment period and apply them towards meeting their Article 3.1 commitments [at a penalty rate of 1.x]; or

12. Purchase units of assigned amount originating in the second commitment period and apply them to meeting their Article 3.1 commitments [at a penalty rate of 1.y]; or

13. Purchase a combination of units of assigned amount originating in both the first and second commitment periods and apply them toward meeting their Article 3.1 commitments [at their respective penalty rates, as set out above].]

[Compliance action plan

Option 1

14. The Party in question shall, within [three] months of the determination of the enforcement branch, develop and commit itself to a compliance action plan [, taking into account Article 2.3 of the Protocol,] approved by the enforcement branch, which shall include, *inter alia*:

(i) An analysis of the reasons for the Party's non-compliance;

(ii) Policies and measures that the Party intends to implement in order to restore [1.x] [x][times] the excess emissions, and an analysis of their expected impact on the Party's greenhouse gas emissions;

(iii) A quantified assessment of the use of each of the mechanisms under Articles 6, [12] and 17, and [Article 4] during the commitment period in which the plan is implemented;

(iv) A declaration not to make transfers under Article 3, paragraph 11, for the duration of the implementation of the compliance action plan;

(v) Detailed information on the economic dimension of the implementation of any action under (ii) or (iii) above;

(vi) A timetable for implementing the measures within a time-frame not exceeding [three] years, including clear benchmarks for measuring annual progress in the implementation;

(vii) An assessment of the compatibility of the compliance action plan with the strategy developed by the Party to comply with its obligations during the commitment period in which the compliance action plan is implemented.

15. Measures implemented under the compliance action plan shall not contribute to any Party's compliance with its quantified emission limitation or reduction commitments during the commitment period in which the compliance action plan is implemented.

16. The Party concerned shall submit a progress report on the implementation of the compliance action plan to the enforcement branch annually no later than 15 April. On the basis of the progress report, the enforcement branch may decide on further recommendations, measures or consequences, as appropriate.

Option 2

17. The Party in question shall, [within a specific time period] after the determination of non-compliance, submit to the enforcement branch a compliance action plan setting forth one or more means by which it intends to restore the tonnes in question.

18. The means may include, for example, use of one or more mechanisms under Articles 6 [, 12] and 17, particular measures, and non-allocation of tonnes under a domestic cap-and-trading system [, and use of a voluntary compliance fund].

19. The Party concerned shall submit a progress report on the implementation of the compliance action plan to the enforcement branch annually no later than [...]. On the basis of the progress report, the enforcement branch [shall] [may] determine whether the requisite tonnes have been restored.

20. In the case where the enforcement branch determines [within a specific time-frame,] that some or all of the requisite tonnes have not been restored, it shall deduct the remaining tonnes from the Party's assigned amount for the commitment period following the period for which the non-compliance with Article 3.1 occurred.]

[Restrictions on the use of the mechanisms

Option 1

Loss of access to the mechanisms under Articles 6, [12] and 17:

21. The Party may not make any transfer or acquisition under Article 3 above a level and for a period of time to be determined by the enforcement branch.

Option 2

Loss of eligibility to transfer parts of assigned amounts:

22. Until the Party has demonstrated to the enforcement branch that it will have a surplus of assigned amount in the subsequent commitment period, its eligibility to transfer parts of assigned amount under Article 17 shall be suspended.]

[Compliance fund

23. [A compliance fund is hereby established.]

[24. The Party shall make payments into a compliance fund at a rate to be determined by the enforcement branch that shall be no more than [...].

25. Each such compliance fund shall be administered by an appropriate body nominated by the Party concerned, which shall forthwith inform the Committee of the name and contact details of the body.

26. The body shall use the income of the compliance fund and any interest earned:

(a) To acquire, at a reasonable rate that shall not be higher than [...], parts of assigned amount originating in the commitment period in which the non compliance occurred, or, if no such parts of assigned amount are available;

(b) On one or more domestic and/or international projects to reduce anthropogenic emissions of greenhouse gases. Such projects shall, within [3] months of the date of the determination by the enforcement branch, be submitted by the Party to the enforcement branch for its approval which shall take into account the short- and medium-term benefits for the climate as well as their cost-effectiveness.

27. The emissions reductions achieved by such projects or the parts of assigned amount acquired by the compliance fund shall not contribute to any Party's compliance with its quantified emission limitation or reduction commitments during the commitment period in which the compliance fund is under operation.

28. The Party shall submit a progress report on the operation of the fund to the Committee annually no later than 15 April. It shall also regularly submit audited accounts to the Committee. On the basis of the report and the accounts, the enforcement branch may decide on further recommendations, measures and/or consequences as appropriate.]

[Financial penalty]

[Suspension of rights and privileges]

[Application of Article 4.5 and 4.6]

29. [If one or more Parties operating under Article 4 are found not to be in compliance with Articles 5 and 7, each Party to an agreement under Article 4 shall be responsible for its own level of emissions set out in the agreement.

30. In accordance with Article 4.6 of the Protocol, any non-compliance consequences under this paragraph shall apply to both the regional economic integration organization and any Party that has exceeded its level of emissions as notified in accordance with Article 4.

31. If one or more Parties operating under Article 4 have been found to have exceeded their respective levels of emissions, the Parties operating under such agreement shall not be able to operate under an Article 4 agreement with respect to the commitment period following the period for which the non-compliance with Article 3.1 occurred; and Annex B commitments shall apply.

32. If one or more Parties operating under Article 4 have been found to have exceeded their respective levels of emissions, another Party operating under that Article 4 agreement shall be able to carry over the assigned amount under Article 3.13 only to the extent that the difference between its emissions and its assigned amount under Article 3 is greater than the amount by which the non-complying Parties under Article 4 have exceeded their respective levels of emissions.]

33. [If one or more Parties operating under Article 4 should fail to achieve their total combined level of emission reductions set out in their Article 4 agreement, a Party operating under that agreement shall not be entitled to add units of assigned amount originating in any

other Party, whether gained under the arrangement itself, any other agreement or under Articles 3.3, 3.4, 6, [12] or 17, in meeting its own level of emissions set out in the agreement.]]
[34. In addition to [applying] [imposing] consequences, under paragraph ... of this section, the enforcement branch may, where appropriate, refer the question to the facilitative branch.

Section V. Other provisions

Secretariat

1. The secretariat shall perform the following functions:

(a) Channel information to the Committee;

(b) Service the meetings of the Committee;

(c) Act as the channel of communication with other Protocol bodies.

Relationship with Article 16 of the Protocol

2. [The multilateral consultative process under Article 16 shall provide advice and facilitate assistance [to non-Annex I Parties] with respect to issues relating to their compliance with the Protocol.]

Relationship with Article 19 of the Protocol

3. The Committee shall operate [without prejudice to] [independent of] Article 19 of the Protocol [and decisions under Article 12].

[Evolution] [Amendment]

Option 1

4. [Subject to Article 18,] the procedures and mechanisms relating to compliance may be modified by consensus of the Parties to the Protocol, taking into account any amendment to the Protocol, decisions of the COP/MOP and experience gained with the working of the process.]

Option 2

5. [The procedures and mechanisms relating to compliance shall be amended in accordance with Article 20 of the Protocol.]

Adoption of procedures and mechanisms relating to compliance

Option 1

6. The Conference of the Parties (COP) recommends that the COP/MOP, at its first session, adopts a decision on the procedures and mechanisms relating to compliance.

Option 2

7. The COP decides, at its sixth session, to adopt the procedures and mechanisms relating to compliance, applicable with immediate effect on a politically binding, and an interim basis.

8. The COP/MOP further recommends that the COP/MOP 1, at its first session, adopt an identical text in a legally binding form by amendment of the Protocol.

Option 3

9. The COP decides to adopt an agreement on procedures and mechanisms relating to compliance to be an integral part of the Protocol, and to enter into force at the same time as the Protocol. Such an agreement may contain a final clause to provide for tacit adherence through signature by Parties that have already ratified the Protocol, and for affirmative adherence by other Parties.

Option 4

10. The COP recommends that the COP/MOP, at its first session, adopts a decision on procedures and mechanisms relating to compliance.

11. The COP further decides to recommend that the COP/MOP includes in the amendment establishing the second commitment period provision on procedures and mechanisms relating to compliance.

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SUBSIDIARY BODY FOR IMPLEMENTATION

REPORT OF THE SUBSIDIARY BODY FOR IMPLEMENTATION ON THE WORK OF ITS THIRTEENTH SESSION (PART ONE) LYON, 11-15 SEPTEMBER 2000

Addendum

CAPACITY-BUILDING

CAPACITY-BUILDING IN DEVELOPING COUNTRIES (NON-ANNEX I PARTIES)[1]

Recommendation of the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation

Draft decision -/CP.6

Capacity-building in developing countries (non-Annex I Parties)

The Conference of the Parties,

[Basing itself on] [Recalling] Article 4.1, 4.3, 4.4, 4.5 and 4.7, in the context of Article 3, and Articles 5 and 6 of the United Nations Framework Convention on Climate Change,

Recalling the provisions related to capacity-building for developing countries contained in its decisions 11/CP.1, 10/CP.2, 11/CP.2, 9/CP.3, 2/CP.4, [in particular paragraphs 1 (c), (d), and (g)], 4/CP.4, 5/CP.4, 6/CP.4, 7/CP.4 [(paragraph 4)], 12/CP.4 and 14/CP.4,

Noting Article 10 (c), (d) and (e), and Article 11 of the Kyoto Protocol,

[Recalling also paragraphs [3], [98 to 100] on capacity-building of the Programme for the Further Implementation of Agenda 21, [and paragraphs 37.2 and 33.13 of Agenda 21], in particular the renewal of the commitment of and support from the international community as essential to support national efforts for capacity-building in developing countries,]

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[1] This item was considered jointly with the Subsidiary Body for Scientific and Technological Advice at the first part of the thirteenth sessions, under agenda item 8 (a).

Reaffirming its decision 10/CP. 5 [, in particular paragraph 1 (e) on the ways and means for capacity-building],

Reaffirming also that capacity-building for developing countries is essential to enable them to participate fully in, and to implement effectively their commitments under the Convention,

1. *Adopts* the framework for capacity-building in developing countries annexed to this decision.

2. *[Decides* that this framework shall guide all capacity-building activities related to the implementation of the Convention and its Kyoto Protocol.] / [Decides to give immediate effect to the implementation of this framework in order to assist developing countries to implement the Convention],

3. *Notes* that areas for capacity-building identified under the Convention are [important] [also] [relevant] [to the preparation of developing country Parties] [to the effective participation] in the Kyoto Protocol process when the Protocol comes into force.]

4. [*Requests* the Global Environment Facility, as an operating entity of the financial mechanism, to provide financing and to implement its capacity-building activities under each area of implementation of the Convention in accordance with this framework and consistent with the relevant decisions of the Conference of the Parties, including the timetables contained therein, and in accordance with the provisions of Article 4.3.]

5. [*Also requests* the Global Environment Facility to include in its reports to the Conference of the Parties at each session, information on the financing and implementation of capacity-building activities conducted under this framework.]

6. *Invites* bilateral and multilateral agencies, and other intergovernmental organizations and institutions, to inform the Conference of the Parties, through the secretariat, of capacity-building activities conducted to assist developing country Parties with their implementation of the framework.

7. [*Encourages* bilateral and multilateral agencies, and other intergovernmental organizations and institutions, to consult further with developing country Parties to develop practical action plans specifying the scale and sources of additional financial resources and corresponding time schedules for supporting capacity-building activities within the annexed framework.]

8. [*Requests* the secretariat to continue to compile information contained in national communications of developing country Parties relating to capacity-building activities, programmes and needs, and information contained in national communications of Annex II Parties on activities and programmes undertaken to facilitate capacity-building in developing countries related to the implementation of the Convention, as well as the information from the Global Environment Facility and other agencies referred to in paragraph 5, and to make this information available in both printed and electronic formats at the next session of the subsidiary bodies.]

9. *Requests* the secretariat, in accordance with this framework for capacity-building, and consistent with Article 8 of the Convention, to undertake the following tasks:

(a) To cooperate with the operating entity of the financial mechanism, its implementing agencies and other entities for capacity-building to facilitate the implementation of this framework;

(b) To collect, process, compile and disseminate the information needed by the Conference of the Parties or its subsidiary bodies to review the progress in the implementation of this framework for capacity-building;

10. [*Decides* to review the progress made in the implementation of this decision at each session.]

11. [*Decides* that the framework shall be in effect for _ years.]

12. [*Recommends* that the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its first session, adopt a decision endorsing this framework for capacity-building under the Convention that parallels the framework contained in the annex to this decision, with additional reference to priority areas for capacity-building relating to the implementation of the Kyoto Protocol.]

13. [*Decides* to establish a special fund to support and promote effective implementation of the Convention and the Kyoto Protocol and Convention processes by the least developed countries, within the time-frame specified in the annexed framework.]

Annex

CAPACITY-BUILDING

CAPACITY-BUILDING IN DEVELOPING COUNTRIES (NON-ANNEX I PARTIES)

Framework for capacity-building in developing countries

A. Purposes

1. This framework for capacity-building in developing countries sets out the scope and provides the basis for action on capacity-building related to the implementation of the Convention and preparation for the effective participation of developing countries in the Kyoto Protocol process that will in a coordinated manner assist them in promoting sustainable development [and in] [through] meeting the objective of the Convention. It should serve as a guide for the Global Environment Facility as an operating entity of the financial mechanism and be considered by multilateral and bilateral organizations in their capacity-building activities related to the implementation of the Convention and preparation for their effective participation in the Kyoto Protocol process.

B. Guiding principles and approaches

2. This framework for capacity-building in developing countries is guided and informed by, inter alia, Article 4.1, 4.3, 4.4, 4.5, and 4.7, in the context of Article 3, and Articles 5, 6 and 11.1 of the Convention, and relevant provisions contained in decisions 11/CP.1, 10/CP.2, 11/CP.2, 9/CP.3, 2/CP.4, 4/CP.4, 5/CP.4, 6/CP.4, 7/CP.4, 12/CP.4, 14/CP.4, and 10/CP.5,[1] and takes into account Articles 10 (c), 10 (d), 10 (e), and [11[.2]] of the Kyoto Protocol.

3. Capacity-building activities related to the implementation of the Convention by developing countries and to the preparation for their effective participation in the Kyoto Protocol process should build on work already undertaken by developing countries, as well as on the work undertaken with support from multilateral and bilateral organizations.

4. The capacity-building needs already identified in the various decisions of the Conference of the Parties (COP) should continue to be comprehensively and promptly addressed to promote sustainable development in developing countries through the effective implementation of the Convention and preparation for their effective participation in the Kyoto Protocol process.

5. There is no "one size fits all" formula for capacity-building. Capacity-building must be country-driven, addressing the specific needs and conditions of developing countries and reflecting their national sustainable development strategies, priorities and initiatives. It is primarily to be undertaken by and in developing countries in accordance with the provisions of the Convention.

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[1] For the full texts of decisions adopted by the Conference of the Parties at its first, second, third, fourth and fifth sessions, see documents FCCC/CP/1995/7/Add.1, FCCC/CP/1996/15/Add.1, FCCC/CP/1997/7/Add.1, FCCC/CP/1998/16/Add.1 and FCCC/CP/1999/6/Add.1, respectively.

6. Capacity-building is a continuous, progressive and iterative process, the implementation of which should be based on the priorities of developing countries.

7. Capacity-building activities should be undertaken in an effective, efficient, integrated and programmatic manner, taking into consideration the specific national circumstances of developing countries.

8. Capacity-building activities undertaken within this framework should maximize synergies between the Convention and other global environmental agreements, as appropriate.

9. Capacity-building is crucial to developing countries, especially those that are particularly vulnerable to the adverse effects of climate change. The special circumstances of least developed countries and small island developing States need to be taken into account in the implementation of this framework, [which include:

(a) Weak and fragile economies and ecosystems;

(b) Low population density, incomes and isolated geographical locations making these groups of countries unattractive to foreign investment;

(c) High population resulting in land degradation, desertification, food insecurity and high levels of poverty;

(d) Undeveloped services inter alia meteorological/hydrological services which are critical for food security and water resources management;

(e) Lack of early warning systems for both food security and disaster management.]

10. Capacity-building involves "learning by doing". Demonstration projects may be used in identifying and learning about the specific capacities that need to be further developed in developing countries.

11. Existing national institutions have an important role to play in supporting capacity-building activities in developing countries. Such centres can incorporate traditional skills, knowledge and practices, to provide appropriate services in developing countries and facilitate information sharing. Whenever possible and effective, therefore, capacity-building should mobilize these existing national, subregional and regional institutions and the private sector in developing countries and build on existing processes and endogenous capacities.

12. National coordinating mechanisms/focal points/national coordinating entities have an important role to play in ensuring coordination at the country and regional levels and may serve as the focal point for coordinating capacity-building activities.

13. Multilateral and bilateral bodies are encouraged to take account of this framework in their consultations with developing countries when supporting capacity-building activities related to the implementation of the Convention and the preparation for effective participation by developing countries in the Kyoto Protocol process.

C. Objectives and scope of capacity-building

Objectives

14. Capacity-building should assist developing countries to build, develop, strengthen, enhance, and improve their capabilities to achieve the objective of the Convention through the implementation of the provisions of the Convention and the preparation for their effective participation in the Kyoto Protocol process.

Scope of capacity-building

15. The following is the initial scope of needs and areas for capacity-building in developing countries as broadly identified in the annex to decision 10/CP.5, in the compilation and synthesis document prepared by the secretariat[2] and in submissions by Parties[3]:

(a) Institutional capacity-building, including the strengthening or establishment, as appropriate, of national climate change secretariats or national focal points;

(b) Enhancement and/or creation of an enabling environment;

(c) National communications;

(d) National climate change programmes;

(e) Greenhouse gas (GHG) inventories, emission database management, and systems for collecting, managing and utilizing activity data and emission factors;

(f) Vulnerability and adaptation assessment;

(g) [Implementation of] adaptation measures;

(h) Assessment [and implementation] of mitigation options;

(i) Research and systematic observation, including meteorological, hydrological and climatological services;

(j) Development and transfer of technology;

(k) Improved decision-making, including assistance for participation in international negotiations;

(l) [[Preparation for effective participation in the] Clean development mechanism];

(m) Needs arising out of the implementation of Article 4.8 and 4.9 of the Convention;

(n) Education, training and public awareness;

(o) Information and networking, including the establishment of databases.

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[2] FCCC/SB/2000/INF.1.
[3] FCCC/SB/2000/INF.5.

16. Other capacity-building needs and possible responses are being identified by the Parties in their discussions of other issues. The decisions resulting from these discussions, as well as other activities related to the implementation of the Convention and preparation for their effective participation in the Kyoto Protocol process, should continue to inform the scope and implementation of this framework.

[Specific scope for capacity-building in least developed countries

17. Recent climate change induced extreme weather events have clearly demonstrated the vulnerability of developing countries, particularly the least developed countries and small island developing States (SIDS). Millions of people have suffered as a result of these events, which have also contributed to increased poverty in these countries. The least developed countries and small island developing States have the least capacity to adapt to natural and climate change induced disasters. In order to ameliorate this situation, it is critical, therefore, that the capacity of these countries is enhanced to take the following actions:

(a) Strengthen or establish national climate change secretariats or focal points to ensure effective implementation of the Convention, the Kyoto Protocol and other legal instruments that may be adopted, including the collection, analysis and interpretation of national communication data and information;

(b) Assess and prioritize capacity-building needs and develop an integrated implementation programme which takes into account the role of research and training in capacity-building;

(c) Develop technical capacities and skills to effectively carry out integrated vulnerability and adaptation assessments and develop national implementation strategies;

(d) Strengthen national research and training institutions to ensure the sustainability of the capacity-building programmes;

(e) Strengthen and establish systematic meteorological, climatological and hydrological observation networks, for the collection, analysis, interpretation and dissemination of data and information to ensure the mitigation of extreme weather and climate events;

(f) Enhance public awareness (level of understanding and human capacity development).]

D. Implementation

Actions to enhance the implementation of this framework, taking into account the initial scope outlined in paragraph[s] 15 [to 17]

18. All Parties should improve the coordination and effectiveness of capacity-building efforts through dialogue between and among Annex II Parties, developing country Parties, and bilateral and multilateral institutions. All Parties should promote conditions conducive to the sustainability and effectiveness of capacity-building activities.

19. In implementing this framework, developing country Parties should:

(a) Continue to identify their specific needs, options and priorities for capacity-building on a country-driven basis, taking into account existing capacities and past and current activities;

(b) Promote South-South cooperation by utilizing the services of institutions in developing countries that can support capacity-building activities at the national, subregional and regional levels, wherever possible and effective;

(c) Promote the participation of a wide range of stakeholders, including governments at all levels, national and international organizations, civil society and the private sector, as appropriate;

(d) Promote the coordination and sustainability of activities undertaken within this framework, including the efforts of national coordinating mechanisms, focal points, and national coordinating entities;

(e) Facilitate the dissemination and sharing of information on capacity-building activities conducted by developing countries for better coordination and South-South cooperation.

20. In implementing this framework, Annex II Parties should:

(a) [Ensure the availability of the additional financial and other resources necessary to implement this framework, including the prompt availability of financial and technical resources to enable developing countries to undertake country-level needs assessments and to develop specific capacity-building activities consistent with this framework;] / [Make available financial and other resources to assist developing countries in the implementation of this framework, as appropriate, including the continued timely availability of financial and technical resources to enable developing countries to undertake country-level needs assessments and to develop specific capacity-building activities consistent with this framework.]

(b) Respond to the capacity-building needs and priorities of developing countries in a coordinated and timely manner, and support activities implemented at the national and, as appropriate, subregional and regional levels;

(c) Give particular attention to the needs of least developed countries and small island developing States amongst them.

Financing and operation

21. [Financial and technical support [for activities] to implement this framework for capacity-building in developing countries should [immediately] be made available through an operating entity of the financial mechanism, multilateral and bilateral agencies and the private sector [, as appropriate].]

22. In response to this framework, the operating entity of the financial mechanism should elaborate a country-driven strategy for its capacity-building activities. [The operating entity should also adopt a streamlined and expedited approach for financing and implementation of activities within this framework].

23. [All Parties,] multilateral and bilateral agencies are encouraged to take constructive action to support capacity-building activities in this framework through streamlined [and coordinated] approaches and in a timely manner.

24. Financial and other assistance is to be made available [immediately] to developing countries, in particular to the least developed countries and small island developing States, to enable them to continue to determine, assess and prioritize their needs for capacity-building in a simple, timely manner and to assist them to [immediately] [as appropriate] put into place the institutional arrangements to implement effective capacity-building activities.

25. The capacity-building activities undertaken within this framework are to be country-driven and implemented primarily at the country level.

26. In order to facilitate the exchange of information and cooperation, developing countries in collaboration with relevant institutions should identify regional, subregional and sectoral activities that can effectively and efficiently address common capacity-building needs.

27. [Developing countries which have already begun the identification of their capacity-building needs through ongoing work aimed at implementing the Convention, should be able to immediately implement capacity-building activities under this framework.]

28. The results of activities conducted by the Global Environment Facility as a multilateral financial institution including the Capacity Development Initiative, as well as activities undertaken by multilateral, bilateral and private sector entities, may be considered in further developing capacity-building activities within this framework at the regional and subregional levels.

Time-frame

29. This framework for capacity-building should be implemented promptly, taking into account the immediate, medium- and long-term priority needs identified by developing countries.

30. [The immediate needs of developing countries, in particular the least developed countries and small island developing States, should be addressed urgently in the implementation of this framework, [including implementing a programme of key identified needs within the next five years].]

Review of progress

31. The COP, through the Subsidiary Body for Implementation, shall regularly monitor and review the progress in the implementation of this framework.

32. All Parties should [make submissions] [report] [regularly] [through national communications] to the COP on their implementation of this framework. Other institutions are also invited to provide relevant information.

33. The Global Environment Facility, as an operating entity of the financial mechanism, is requested to report on its progress in support of the implementation of this framework in its reports to the COP.

Role of the secretariat

34. In accordance with this framework for capacity-building, the secretariat is requested, consistent with Article 8 of the Convention, to undertake the following tasks:

(a) To cooperate with the operating entity of the financial mechanism, its implementing agencies and other entities for capacity-building to facilitate the implementation of this framework;

(b) To collect, process, compile and disseminate the information needed by the COP or its subsidiary bodies to review the progress in the implementation of this framework for capacity-building.

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Addendum

CAPACITY-BUILDING

CAPACITY-BUILDING IN COUNTRIES WITH ECONOMIES IN TRANSITION [1]

Recommendation of the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation

Draft decision -/CP.6

Capacity-building in countries with economies in transition

The Conference of the Parties,

Recalling its decision 11/CP.5,

Recalling Articles 4.1, 4.2, 4.5 and 4.6, 5, 6 and 12 of the Convention,

Noting Articles 2, 3, 5, 6, 7 and 17 of the Kyoto Protocol,

Further recalling its decisions 9/CP.2, 6/CP.4 and 7/CP.4,

Having considered the relevant recommendations of the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation,[2]

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[1] This item was considered jointly with the Subsidiary Body for Scientific and Technological Advice at the first part of the thirteenth sessions, under agenda item 8 (b).

[2] FCCC/SBSTA/2000/10, FCCC/SBI/2000/10.

1. *Adopts* the framework for capacity-building activities in countries with economies in transition contained in the annex below;

2. *Decides* to give immediate effect to this framework, in order to assist Parties with economies in transition to implement the Convention;

3. *Notes* that many areas for capacity-building identified under the Convention are also relevant to the preparation of Parties with economies in transition for participation in the Kyoto Protocol process when the Protocol comes into force;

4. *Decides* to review the effectiveness of the implementation of the framework at regular intervals;

5. [*Invites* Annex II Parties and Parties with economies in transition to provide information to enable the Conference of the Parties and the subsidiary bodies to monitor progress in the implementation of this framework, [consistent with guidelines for the preparation of national communications];]

6. [*Urges* Annex II Parties, through multilateral agencies, including through the Capacity Development Initiative of the Global Environment Facility, and bilateral agencies and the private sector as appropriate, to ensure the financial resources and technical support required for the implementation of this framework for capacity-building, including assistance for the development of national action plans of Parties with economies in transition consistent with their own priorities;]

7. [*Further urges* multilateral and bilateral agencies to coordinate in providing streamlined and expedited approaches to financing and supporting the implementation of this framework for capacity-building;]

8. *Recommends* that the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its first session, adopt a decision endorsing this framework for capacity-building under the Convention that parallels the framework attached in the annex below, with additional reference to priority areas for capacity-building relating to implementation of the Kyoto Protocol;

9. *Requests* the secretariat, consistent with Article 8 of the Convention:

(a) To cooperate with multilateral and bilateral institutions to facilitate the implementation of this framework;

(b) To [collect], process, compile and disseminate the information needed by the Conference of the Parties and the subsidiary bodies to monitor progress in the implementation of this framework.

Annex

CAPACITY-BUILDING

CAPACITY-BUILDING IN COUNTRIES WITH ECONOMIES IN TRANSITION

Framework for capacity-building in countries with economies in transition

A. Purpose

1. The purpose of this framework for capacity-building is to set out the scope and basis for action for capacity-building activities in countries with economies in transition (EIT Parties) under the Convention [and for the preparation of EIT Parties for implementation of the Kyoto Protocol].

B. Guiding principles and approaches

2. This framework for capacity-building in EIT Parties is guided and informed by, *inter alia*, Articles 4.1, 4.2, 4.5 and 4.6, 5, 6 and 12 of the Convention and relevant provisions contained in decisions 9/CP.2, 6/CP.4, 7/CP.4 and 11/CP.5[1] and takes account of Articles 2, 3, 5, 6, 7 and 17 of the Kyoto Protocol.

3. As Parties included in Annex I, EIT Parties have quantified emission limitation and reduction commitments that impose challenges to their existing capacities to implement the Convention. As Parties undergoing the process of transition to a market economy, they need to enhance their ability to address climate change issues. Capacity-building is therefore critical to the effective implementation by EIT Parties of their commitments under the Convention [and the preparation of EIT Parties for implementation of the Kyoto Protocol].

4. Capacity-building for EIT Parties must be country-driven, consistent with their national sustainable development strategies, reflect their national initiatives and priorities, respond to needs determined and prioritized by EIT Parties themselves and be primarily undertaken by and in EIT Parties in partnership with other Parties and relevant organizations, as appropriate, in accordance with the provisions of the Convention.

5. Capacity-building should contribute to the effective implementation of the Convention by EIT Parties [and the preparation of EIT Parties for implementation of the Kyoto Protocol].

6. Capacity-building efforts are more effective when they take place within an enabling environment conducive to the development of human, institutional and technical capacity.

7. Capacity-building should be results-oriented and implemented in an integrated and programmatic manner to facilitate its monitoring and evaluation, cost-effectiveness and efficiency.

8. Capacity-building is a continuous process aimed at strengthening or establishing, as appropriate, relevant institutions, organizational structures, and human resources in order to

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[1] For the full texts of decisions adopted by the Conference of the Parties at its second, fourth and fifth sessions, see documents FCCC/CP/1996/15/Add.1, FCCC/CP/1998/16/Add.1 and FCCC/CP/1999/6/Add.1 respectively.

strengthen expertise relevant to the effective implementation of the Convention [and the preparation of EIT Parties for implementation of the Kyoto Protocol]

9. Capacities should be developed and strengthened in a manner and under conditions that will work towards sustainability and support the short- and long-term objectives and priorities of EIT Parties under the Convention [and the preparation of EIT Parties for implementation of the Kyoto Protocol].

10. Capacity-building involves "learning by doing". Capacity-building activities should be designed and implemented in a flexible manner.

11. Capacity-building should improve the coordination and effectiveness of existing efforts and promote the participation of and dialogue between a wide range of actors and constituencies, including governments at all levels, international organizations, civil society and the private sector.

12. Wherever possible, capacity-building should utilize existing institutions and bodies and build on existing processes and endogenous capacities.

13. National focal points and other institutions such as research centres and universities and other relevant organizations [may] [should] play an important role in providing capacity-building services and facilitating the flow of knowledge, best practices and information.

14. Capacity-building should be designed so that it results in the development, strengthening and enhancement of institutional capacities, human resources, knowledge and information, methodologies and practices, and the participation and networking of EIT Parties to promote sustainable development and to implement their commitments under the Convention [and their preparation for implementation of the Kyoto Protocol].

15. Capacity-building in support of achieving the objectives of the Convention [and the preparation of EIT Parties for implementation of the Kyoto Protocol] should maximize synergies between the Convention and other global environmental agreements, as appropriate.

16. Capacity-building is more effective when it is coordinated at all levels (national, regional and international) through dialogue between and among Annex I Parties, and when past and existing efforts are taken into account.

C. Objectives and scope of capacity-building

Objective

17. To build the capacity of EIT Parties to enable them to effectively implement the objectives of the Convention [and the preparation of EIT Parties for implementation of the Kyoto Protocol].

Scope for capacity-building

18. To ensure that capacity-building efforts are country-driven, each EIT Party should, within the scope for capacity-building, determine its specific objectives, needs, priorities, and options to implement the Convention [and the preparation of EIT Parties for implementation of the Kyoto

[Protocol] consistent with its national sustainable development strategy, taking into account existing capacities and past and current activities undertaken by the country itself and in partnership with bilateral and multilateral institutions and the private sector.

19. The needs for capacity-building in EIT Parties were first identified in the compilation and synthesis document prepared by the secretariat (FCCC/SB/2000/INF.2) based on the submissions of EIT Parties (FCCC/SB/2000/INF.7). The general areas and needs for capacity-building are listed below. [This scope for capacity-building may be revised as further information is made available and as needs and priorities are further identified.]

20. [General priority areas for capacity-building identified by EIT Parties related to the implementation of the Convention, which may also be relevant to their preparation for participation in the Kyoto Protocol are to be identified in their national action plan for capacity-building, and include:

(a) Improving the quality of the national greenhouse gas (GHG) inventories;

(b) Facilitating the elaboration of national policies and measures to reduce GHG emissions;

(c) Preparing projections and estimating the effect of policies and measures;

(d) Impact assessment and adaptation;

(e) Research and systematic observation;

(f) Education, training and public awareness;

(g) [Facilitating] transfer of environmentally-sound technologies;

(h) [Preparing] national communications and national climate action plans;

(i) [Establishing] national systems for estimation of GHG emissions;

(j) [Modalities for accounting relating to targets and timetables] [national systems];

(k) [Facilitating the implementation of] reporting obligations;

(l) [Joint implementation projects and emissions trading.] [Projects for joint implementation of emissions limitations and reductions].]

21. In order to maximize available resources for capacity-building and to facilitate exchange and cooperation among EIT Parties, multilateral and bilateral agencies in consultation with EIT Parties should assist as appropriate, the efforts of EIT Parties themselves to identify, develop and implement national, regional, subregional and sectoral activities that meet the capacity-building needs of EIT Parties. The results of the current and next phase of the Capacity Development Initiative of the Global Environment Facility (GEF) could provide valuable inputs for these activities.

D. Implementation

Responsibilities for implementation

22. In implementing the activities undertaken within this framework for capacity-building, EIT and Annex II Parties have the following mutual responsibilities:

(a) To improve the coordination and effectiveness of existing efforts;

(b) To provide information to enable the Conference of the Parties (COP) to monitor progress in the implementation of this framework for capacity-building;

(c) [To provide an enabling environment to promote the sustainability and effectiveness of capacity-building activities relating to the implementation of the ultimate objective of the Convention [and the preparation of the EIT Parties for implementation of the Kyoto Protocol].]

23. In the implementation of this framework for capacity-building, EIT Parties have the following responsibilities:

(a) To identify their specific needs, priorities and options for capacity-building on a country-driven basis, taking into account existing capacities and past and current activities;

(b) To identify and provide information on their own capacity-building activities;

(c) To promote cooperation among EIT Parties as well as to report to the COP on these activities in their national communications.

(d) To ensure the mobilization and sustainability of national capacities, including the institutional leadership necessary for national coordination and the effectiveness of capacity-building activities;

(e) To promote the participation in and access to capacity-building activities of all stakeholders, including governments, civil society and the private sector, as appropriate.

24. In cooperating with EIT Parties to support the implementation of this framework for capacity-building, Annex II Parties have the following responsibilities:

(a) [To assist EIT Parties, including through the provision of financial and other resources, to undertake country-level needs assessments to effectively implement the Convention [and and the preparation of EIT Parties for implementation of the Kyoto Protocol];]

(b) To assist EITs, including through the provision of financial and other resources, to implement options for capacity-building consistent with their specific priorities and this framework.

Financing

25. [The Annex II Parties [are urged], through multilateral agencies, including through the Capacity Development Initiative of the Global Environment Facility, and bilateral agencies and the private sector as appropriate, [to] [will] make available the financial resources and technical

support needed [to assist EIT Parties] in the implementation of this framework for capacity-building.]

Time-frame

26. The implementation of activities undertaken within this framework for capacity-building should commence as soon as possible to assist EIT Parties to implement the Convention [and in the preparation of EIT Parties for implementation of the Kyoto Protocol].

Monitoring of progress

27. The COP, through the subsidiary bodies, shall monitor the effectiveness of the implementation of this framework for capacity-building.

28. Information to enable the COP to monitor the effectiveness of the implementation of this framework should be reported by Parties. Other institutions involved in capacity-building in EIT Parties are invited to provide information for this purpose.

Role of the secretariat

29. In accordance with this framework for capacity-building, the secretariat is requested, consistent with Article 8 of the Convention, to undertake the following tasks:

(a) To cooperate with multilateral and bilateral institutions to facilitate the implementation of this framework;

(b) To [collect], process, compile and disseminate the information needed by the COP or its subsidiary bodies to monitor the progress in the implementation of this framework for capacity-building.

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